

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

MICHAEL CHARLES BAILEY,

Plaintiff,

v.

No.

BETH MOHR, and  
STATE FARM MUTUAL AUTOMOBILE  
INSURANCE COMPANY,

Defendants.

**NOTICE OF REMOVAL**

Defendant, Beth Mohr, by and through her counsel of record, Miller Stratvert P.A., hereby gives notice of removal of this matter to the United States District Court for the District of New Mexico as follows:

1. Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, Defendant Mohr hereby gives notice of removal of all counts and claims asserted by the Plaintiff in the civil action filed in the Second Judicial District, County of Bernalillo, State of New Mexico, styled: *Michael Charles Bailey v. Beth Mohr and State Farm Mutual Automobile Insurance Company*; Second Judicial District Cause No. D-202-CV-2021-03085 (the “State Court Action”). Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings, and orders served on Defendant Beth Mohr to date are attached hereto as Exhibit 1 (copy of the below-defined Complaint).

2. Plaintiff’s original filing, which is titled as “Complaint for Personal Injuries” (hereinafter the “Complaint”), was filed in the Second Judicial District Court on May 17, 2021. *See* Exhibit 1 at 1.

3. Defendant Mohr was served on May 24, 2021. *See* the Affidavit of Service, attached hereto as Exhibit 2.

4. Defendant State Farm Automobile Insurance Company (“State Farm”) has not been served in this matter.

5. Defendant Mohr states that this is an action of a civil nature in which the United States District Court has diversity jurisdiction pursuant to 28 U.S.C. § 1332(a) because there is complete diversity of citizenship between Plaintiff and Defendants, and the amount in controversy exceeds \$75,000.00. *See* Plaintiff’s Certification Regarding Arbitration Under Rule 603, attached hereto as Exhibit 3.

6. The Complaint asserts that Plaintiff is a resident of the City of Sebring, Florida. *See* Exhibit 1, Complaint ¶ 1.

7. Defendant Mohr is a resident of the City of Albuquerque, State of New Mexico. *Id.* ¶ 2.

8. Defendant State Farm is a resident of the State of Illinois, as it is incorporated in Illinois and has its principal place of business in the State of Illinois.

9. Defendant Mohr has consented to the removal of this matter to the United States District Court for the District of New Mexico. Even though State Farm has yet to be served, it has consented to removal of this matter to the United States District Court for the District of New Mexico.

10. The amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

11. The following is established on the face of the Complaint. This case involves an actual controversy between Plaintiff Defendant Mohr regarding an alleged motor-vehicle collision and alleged resulting personal injuries. Plaintiff alleges that he suffered personal injuries due to a

vehicle collision on September 27, 2018 that was allegedly caused by Defendant Mohr. *See* Complaint ¶¶ 4, 6.

12. Plaintiff further alleges he sustained “personal injuries, including physical and mental pain and suffering, which required medical treatment.” *See* Complaint ¶ 10.

13. In his Prayer for Relief, Plaintiff seeks judgment against Defendants for past and future damages, costs, and pre- and post-judgment interest, *See* Complaint at p. 5.

14. Without admitting any of the foregoing allegations, Defendant Mohr respectfully submits that the aggregate “value” of what Plaintiff seeks to recover in this case exceeds \$75,000.00. *See Wiatt v. State Farm Ins. Co.*, 560 F. Supp. 2d 1068, 1075 (D.N.M. 2007) (court may “aggregate actual damages, punitive damages, attorneys’ fees, and statutorily imposed penalties” when determining whether jurisdictional amount requirement is satisfied).

15. The United States Supreme Court has clarified that “as specified in § 1446(a), a defendant’s notice of removal need include only a plausible allegation that the amount in controversy exceeds the jurisdictional threshold. Evidence establishing the amount is required by § 1446(c)(2)(B) only when the plaintiff contests, or the court questions, the defendant’s allegation.” *Dart Cherokee Basin Operating Co., LLC v. Owens*, 135 S. Ct. 547, 554 (2014).

16. Notice is being provided to Plaintiff of the filing of this Notice as required by 28 U.S.C. § 1446(d).

17. A copy of this Notice will be filed with the Clerk for the District Court for Bernalillo County in the State Court Action as required under 28 U.S.C. § 1446(d).

18. Defendant requests a jury of twelve persons.

Respectfully submitted,

MILLER STRATVERT P.A.

By /s/ Max A. Jones

MAX A. JONES

Attorneys for Defendants

Post Office Box 25687

Albuquerque, NM 87125

Phone: (505) 842-1950

Fax: (505) 243-4408

### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on the 21<sup>st</sup> day of June, 2021, a copy of the foregoing was electronically filed through the CM/ECF system, and that a copy of the foregoing was sent via email to the following:

#### **ATTORNEYS FOR PLAINTIFF**

Nicholas A. Norden

Norden Leacox, PLLC

801 N. Magnolia Ave., Suite 309

Orlando, FL 32803

Phone: 407-801-3000

Fax: 407-612-7603

[nicholasefiling@nordenleacox.com-efiling](mailto:nicholasefiling@nordenleacox.com-efiling)

[nnorden@nordenleacox.com](mailto:nnorden@nordenleacox.com)

/s/ Max A. Jones

Max A. Jones

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FILED  
2ND JUDICIAL DISTRICT COURT  
Bernalillo County  
5/17/2021 11:01 AM  
CLERK OF THE COURT  
Luke Tessman

STATE OF NEW MEXICO  
COUNTY OF BERNALILLO  
SECOND JUDICIAL DISTRICT COURT

MICHAEL CHARLES BAILEY,

Plaintiff,

No. D-202-CV-2021-03085

vs.

BETH MOHR and  
STATE FARM MUTUAL AUTOMOBILE  
INSURANCE COMPANY,

Defendants.

**COMPLAINT FOR PERSONAL INJURIES**

COMES NOW the Plaintiff, MICHAEL CHARLES BAILEY, by and through his attorneys, NORDEN LEACOX, PLLC (Nicholas A. Norden, Esq.) and sues Defendants, BETH MOHR and STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, alleging as follows:

**FACTS COMMON TO ALL CLAIMS**

1. The Plaintiff, MICHAEL CHARLES BAILEY, is a resident of the City of Sebring, State of Florida.
2. Upon information and belief, the Defendant, BETH MOHR, is a resident of the City of Albuquerque, County of Bernalillo, State of New Mexico.
3. Defendant, STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, is a foreign corporation domiciled in Bloomington, Illinois, with its headquarters in Bloomington, Illinois, and is authorized to engage in the sale of automobile insurance within the State of New Mexico.

4. The incident giving rise to this Complaint occurred on Carlisle Boulevard NE near the intersection with Menaul Boulevard NE, in the City of Albuquerque, County of Bernalillo, State of New Mexico.

5. This Court has jurisdiction over all parties and matters herein.

6. On September 27, 2018, Plaintiff, MICHAEL CHARLES BAILEY, was the lawfully restrained driver of a vehicle that was traveling northbound on Carlisle Boulevard NE, slowing for traffic due to a red light, in the City of Albuquerque, County of Bernalillo, State of New Mexico.

7. Another vehicle, operated by Defendant, BETH MOHR, was also traveling northbound on Carlisle Boulevard NE, directly behind Plaintiff's vehicle.

8. That Defendant, BETH MOHR, carelessly operated the vehicle she was driving so that it impacted the rear of Plaintiff's vehicle with great force and momentum, due to inattention to traffic on the roadway.

9. Upon information and belief, the vehicle which Defendant, BETH MOHR, was operating is owned by Defendant, BETH MOHR.

10. As a result of this collision, Plaintiff sustained personal injuries, including physical and mental pain and suffering, which required medical treatment.

11. At the time of the Collision, Defendant, BETH MOHR, was an insured driver and insured by STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY.

12. Defendant STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY is liable for any judgement entered against Defendant, BETH MOHR.

**COUNT I:**

**CLAIM FOR NEGLIGENCE AND NEGLIGENCE PER SE AS TO DEFENDANT, BETH**

**MOHR**

13. Plaintiff realleges and reasserts Paragraphs one (1) through twelve (12) of Facts Common to All Claims as though fully set forth herein.

14. On September 27, 2018, and at all times material hereto, Defendant, BETH MOHR, owed a duty to exercise reasonable care in the operation, maintenance, control and/or use of the motor vehicle she was operating for the benefit of other individuals on the public roadways, including the Plaintiff.

15. Defendant, BETH MOHR, breached said duty when she failed to exercise reasonable care when operating the motor vehicle she was driving, thereby striking the rear of Plaintiff's vehicle.

16. The automobile collision which is the subject matter of Plaintiffs' Complaint for Personal Injuries and subsequent injuries was proximately caused by one or more of the following negligent acts or omissions on the part of Defendant, BETH MOHR, in that he:

- a. Failed to give full time and entire attention to the operation of a motor vehicle in violation of § 66-8-114(A) N.M.S.A.
- b. Failed to use ordinary care in the operation of her vehicle, giving due regard to the traffic and road conditions in violation of § 66-8-114(B) N.M.S.A.

- c. Followed Plaintiffs' vehicle more closely than was reasonable and prudent under the circumstances in violation of § 66-7-301(B)(1) N.M.S.A. (1978).

17. As a result of the negligence of Defendant, BETH MOHR, Plaintiff, MICHAEL CHARLES BAILEY, was injured and suffered physical injuries, as well as mental and emotional suffering, loss of household services, lost wages and loss of enjoyment of life.

18. Said injuries sustained by Plaintiff required, and may continue to require, medical treatment and Plaintiff has incurred substantial medical bills.

19. At the time of the incident that caused Plaintiff's injuries, Defendant, STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, provided liability insurance coverage to Defendant, BETH MOHR, for the vehicle involved in the subject incident.

20. Defendant, BETH MOHR's, insurance policy with Defendant, STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, was obtained pursuant to New Mexico State law, which requires that motor vehicles owned or operated in New Mexico carry liability insurance in the minimum amounts of \$25,000 per injured person and \$50,000 for all injured persons in any single incident.

21. Pursuant to Raskob v. Sanchez, Defendant, STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, is liable for any Judgment entered against Defendant, BETH MOHR.

**WHEREFORE**, Plaintiff, MICHAEL CHARLES BAILEY, prays that this Court find for him and against Defendants, BETH MOHR and STATE FARM MUTUAL AUTOMOBILE INSURANCE COMPANY, and enter a Judgment in favor of Plaintiff for the following relief:



- A. Damages in an amount sufficient to compensate Plaintiff for past medical losses and for physical and mental pain and suffering;
- B. Damages in an amount that will compensate Plaintiff for future losses, including incidental and consequential damages;
- C. Plaintiffs' costs incurred in this action;
- D. Pre-judgment and post-judgment interest at the statutory rate per annum or as the trial court may, in its discretion, award; and
- E. For such other and further relief as this Court deems just and reasonable.

Respectfully submitted,

**NORDEN LEACOX, PLLC**

*/s/Nicholas A. Norden, Esq.*

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Nicholas A. Norden, Esq.  
Attorney for Plaintiff  
801 N. Magnolia Ave., Suite 309  
Orlando, FL 32803  
Telephone (407) 801-3000  
Facsimile (407) 612-7603  
[nicholasefiling@nordenleacox.com-efiling](mailto:nicholasefiling@nordenleacox.com-efiling)  
[nnorden@nordenleacox.com](mailto:nnorden@nordenleacox.com)

## AFFIDAVIT OF SERVICE

FILED  
2ND JUDICIAL DISTRICT COURT  
Bernalillo County  
5/25/2021 5:50 PM

State of New Mexico

County of Bernalillo

Second Judicial District Court  
CLERK OF THE COURT  
Gena Lopez

Case Number: D-202-CV-2021-03085

Plaintiff:

MICHAEL CHARLES BAILEY

vs.

Defendant:

BETH MOHR and STATE FARM MUTUAL AUTOMOBILE INSUREANCE  
COMPANY

For:

Nicholas Norden  
Norden Leacock, PLLC  
801 N. Magnolia Ave Ste 309  
Orlando, FL 32803

Received these papers on the 20th day of May, 2021 at 4:01 pm to be served on Beth Mohr, 4031 Smith Ave SE, Albuquerque, NM 87108.

I, Dean Sedillo, being duly sworn, depose and say that on the 21st day of May, 2021 at 5:52 pm, I:

**SUBSTITUTE WITH MAILING:** Served by delivering a true copy of the Summons, Complaint For Personal Injuries, Request For Admissions To Defendant, Beth Mohr, Plaintiff's First Set Of Requests For Production To Defendant, Beth Mohr, Consent To Release Confidential Information, Jury Demand, Certification Regarding Arbitration Under Rule 603 to: Paul Hook as Uncle & Co-resident at the address of: 4031 Smith Ave SE, Albuquerque, NM 87108, the within named person's usual place of Abode, who resides therein, who is over the age of fifteen (15) years and informed said person of the contents therein, in compliance with state statutes. *Process server asked Paul Hook if Beth Mohr resided at the listed address with him/her and Paul Hook confirmed residency.* Service was completed by MAILING by first class mail, postage pre-paid to the defendant at 4031 Smith Ave SE, Albuquerque, NM 87108 a copy of Summons, Complaint For Personal Injuries, Request For Admissions To Defendant, Beth Mohr, Plaintiff's First Set Of Requests For Production To Defendant, Beth Mohr, Consent To Release Confidential Information, Jury Demand, Certification Regarding Arbitration Under Rule 603 on 5/24/2021 from Albuquerque, NM

**Additional Information pertaining to this Service:**

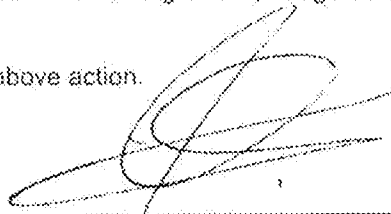
5/21/2021 5:52 pm Dean Sedillo served Beth Mohr at 4031 Smith Ave SE, Albuquerque, NM 87108 by hand delivering the documents to Paul Hook, Uncle and co-resident. Service was completed by mailing a copy of the documents to Beth Mohr at 4031 Smith Ave SE, Albuquerque, NM 87108 on 5/24/2021.

**Description of Person Served:** Age: ~70, Sex: M, Race/Skin Color: White, Height: 5'9", Weight: 180, Hair: Balding, Glasses: N

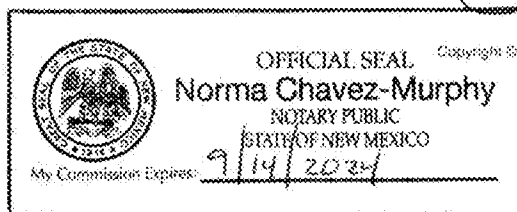
I certify that I am over the age of 18 and have no interest in the above action.

Subscribed and Sworn to before me on the 24th day of May, 2021 by the affiant who is personally known to me.

  
NOTARY PUBLIC

  
Dean Sedillo  
Process Server

Our Job Serial Number: MPP-2021002508





STATE OF NEW MEXICO  
COUNTY OF BERNALILLO  
SECOND JUDICIAL DISTRICT COURT

FILED  
2ND JUDICIAL DISTRICT COURT  
Bernalillo County  
5/17/2021 11:01 AM  
CLERK OF THE COURT  
Luke Tessman

MICHAEL CHARLES BAILEY,

Plaintiff,

No. D-202-CV-2021-03085

vs.

BETH MOHR and  
STATE FARM MUTUAL AUTOMOBILE  
INSURANCE COMPANY,

Defendants.

**CERTIFICATION REGARDING ARBITRATION UNDER RULE 603**

COMES NOW NICHOLAS A. NORDEN, ESQ. from NORDEN LEACOX, PLLC, attorney for  
the Plaintiff, MICHAEL CHARLES BAILEY, and certifies as follows:

     This case is subject to referral to arbitration under Local Rule 603. No party seeks relief other than  
a monetary judgment and no party seeks an award in excess of Twenty-Five Thousand Dollars  
(\$25,000.00), inclusive of punitive damages and exclusive of interest, costs and attorney's fees.

  x   This case is not subject to referral to arbitration under Local Rule 603 because at least one party  
seeks relief other than a money judgment and/or at least one party seeks an award in excess of  
Twenty-Five Thousand Dollars (\$25,000.00), inclusive of punitive damages and exclusive of  
interest, costs and attorney's fees.

Respectfully submitted,

NORDEN LEACOX, PLLC

*/s/ Nicholas A. Norden*

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Nicholas A. Norden, Esq.  
Attorney for Plaintiff  
801 N. Magnolia Ave., Suite 309  
Orlando, FL 32803  
Telephone (407) 801-3000  
Facsimile (407) 612-7603  
[nicholasefiling@nordenleacox.com-efiling](mailto:nicholasefiling@nordenleacox.com-efiling)  
[nnorden@nordenleacox.com](mailto:nnorden@nordenleacox.com)